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Minutes of the Commission Meeting Held on June 22, 2006 In the Stone Building 33 New York Avenue, Oak Bluffs, MA

IN ATTENDANCE

Commissioners: (P = Present; A = Appointed; E = Elected)

P James Athearn (E – Edgartown)	P Ned Orleans (A – Tisbury)
P John Best (E – Tisbury)	P Megan Ottens-Sargent (E – Aquinnah)
P John Breckenridge (A – Oak Bluffs)	P Deborah Pigeon (E – Oak Bluffs)
P Christina Brown (E – Edgartown)	P Jim Powell (A – West Tisbury)
P Carlene Condon (A – Edgartown)	P Doug Sederholm (E – Chilmark)
P Martin Crane (A – Governor Appointee)	P Linda Sibley (E – West Tisbury)
P Mimi Davisson (E – Oak Bluffs)	P Paul Strauss (County Comm. Rep.)
P Chris Murphy (A – Chilmark)	P Andrew Woodruff (E – West Tisbury)
P Katherine Newman (A – Aquinnah)	

Staff: Mark London (Executive Director), Bill Veno (Senior Planner), Christine Flynn (Affordable Housing & Economic Planner), Bill Wilcox (Water Resources Planner), Paul Foley (DRI Coordinator)

1. EXECUTIVE DIRECTOR'S REPORT

1.1 Island Plan

Mark London reported that there will be an Island Plan Forum on Saturday, June 24th, 8:30 a.m., at the Sailing Camp.

1.2 21 Kennebec, Oak Bluffs

Mark London spoke about the newspaper article on Commission review of the Kennebec Avenue, Oak Bluffs building. He said that there had apparently been some misunderstanding about whether the project falls under a DRI checklist item.

Megan Ottens-Sargent asked what happens if a project triggers a checklist review but the town doesn't refer it. **Mark London** said generally the Commission doesn't review projects that have not been referred although it could take legal action.

Doug Sederholm said it is in an applicant's best interest to have a DRI review, particularly in relation to resale and borrowed financing.

2. WOODLAND CENTER PHASE 2: DRI 39M-2 – PUBLIC HEARING

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Crane, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, L. Sibley, P. Strauss, A. Woodruff

For the Applicant: Sam Dunn, developer

Staff: As above and Charles Crevo (C3 Consulting) traffic consultant to the Commission.

Christina Brown opened the public hearing on the application of Sam Dunn on the proposal to build a 5,000 square foot building at the rear of the existing building DRI 39M-2.

2.1 Applicant's Presentation

Sam Dunn explained that this building is the last phase of the project. The application is for a 5,000 square foot building on a separate lot behind the existing building.

- The design is similar to the pavilion and the greenhouse replacement and will house retail stores or offices.
- The building will have separate parking and septic which will be an advanced treatment system designed for office space flow.
- Stormwater will be handled with subsurface drywells.
- The back of the building will be gravel, the front will be asphalt and dovetail into the existing roadway.
- Four drywells in a large trench with a trench drain will be sufficient to handle ordinary rain from the adjacent project.
- Landscaping, architectural detail, parking and porches will match the other buildings.
- The building at the back would not have signs on State Road.

Sam Dunn clarified that Phase I was the greenhouse project. This proposal is for Phase 2 and it has not yet been before the Commission.

John Breckenridge asked about infiltrator trenches. **Sam Dunn** said stormwater from the whole project which heads down the road toward the Brazilian store in back will be captured in trenches. The stormwater in back will not be captured.

2.2 Staff Report

Paul Foley gave the staff report.

- The back lot on which the building is proposed is 0.48 acres.
- The application is for a 5,000 sq. ft. building with three retail units.
- Woodland originally came before the Commission in 1976.
- Woodland Center is currently comprised of 18 business condominiums in 3 buildings.
- A key issue is traffic, internal and external to the development.
- The applicant has offered a \$3,000 affordable housing contribution to an Island group of his choosing.
- The economic impact of this phase is the addition of 3 retail units. They would be sold as condominiums; the owners would be able to build equity.
- This phase will fit in with the other renovations in the development.

2.3 Traffic

Charles Crevo from C3 Consulting did the traffic impact assessment.

- He analyzed the traffic on the basis of its use in the category of 'special retail center.'
- For phase one he looked at traffic on State Road in February, then in June. Then he assessed entrances and exits, estimating 14 – 15 trips per 1000 sq. ft.
- The new building will generate about additional 74 trips during a mid-day peak hour in summer.
- He generated numbers for 2006 for the whole complex.
- The intersection will be functioning at level of service F during summer peak hours, with a theoretically calculated delay of 100 seconds to 300 seconds for vehicles leaving the complex.
- Traffic models should be considered as a guide, not as a literal projection.
- Of the cars entering the project from State Road during a summer peak hour, 118 come from the Vineyard Haven direction, and 41 from the West Tisbury direction.
- He used a factor to estimate the summer traffic, on the basis of counts at other times of the year, using a factor of 1.4 (as opposed to 2.2 used elsewhere) since the center is not a destination for tourists so the seasonal variation is not as great.

Mark London pointed out some differences between this project, and another project in the area that was denied by the Commission a few years ago:

- Although there is significant theoretical delay, this was affecting the vehicles leaving the private parking lot, and was not seriously impacting a public road;
- Most of the traffic entering the project from State Road would be coming from Vineyard Haven and would therefore be turning right, which would cause less disruption on State Road than the other project that involved most of the entering traffic making a left turn from State Road.

Linda Sibley asked whether eliminating high traffic generating businesses might be appropriate. **Sam Dunn** said he does not have a list, but is willing to eliminate some business types from occupancy.

There was a discussion of the possibility of a connector road:

- **Jim Powell** asked about the possibility of a connector road, which could alleviate traffic.
- **Sam Dunn** said he could place a dormant easement on part of the property identified for the possible road, which can be activated by the planning board of the town of Tisbury when the other connections are completed.
- **Ned Orleans** said that Henry Stephenson has reported that the neighbors might be willing to cooperate.
- **Mimi Davisson** said it would be a benefit to implement a physical connection between the business center and other merchants.

2.4 Wastewater and Stormwater

Bill Wilcox gave the wastewater report.

- Stormwater runs from Woodland near State Road through the middle of the parking lot, then down into Vineyard Auto's parking area and into the Woodlands 2 area. A good

portion of stormwater goes further down the back. The plan is to intercept a portion of the run-off from Woodland 1, and all of the runoff from Woodland 2.

- The system is a Waterloo Bio-Filter which removes nitrogen successfully if maintained properly.
- Nitrogen loading with a denitrification system would come in just under the Tashmoo nitrogen load limit, if the wastewater were reduced from the maximum flow allowed on the lot under Title 5.
- He will be better able to answer questions at the next session of the hearing, after he has reviewed the recently submitted plans.

Sam Dunn pointed out that they have made tremendous headway against the original situation resulting in tremendous nitrogen reduction. He's not sure whether to look at nitrogen flow from the project as a whole or just this portion of the project.

John Breckenridge asked about infiltrator catch basins versus natural vegetation. The filtrator won't treat or remove nitrogen. **Bill Wilcox** said the stormwater flow is usually a small percentage of the nitrogen.

Jim Athearn asked about the impact on the town well, which is about 500 feet from the site and whether there were any concerns about bacteria. **Bill Wilcox** said parking lots release oil and coolant. There is a very limited threat to town well; bacteria and pathogens will be filtered through sand.

2.5 Commissioners' Questions

Linda Sibley asked whether the new building units would be part of the condo association.

Sam Dunn said there would be a condo association but he's unsure whether it will be part of the existing association or separate.

Linda Sibley asked if there were any possibility of a restaurant. **Sam Dunn** said the septic could only be used for office or retail.

2.6 Town Boards

There were no comments or correspondence from town boards.

2.7 Public Comment

Robert Woods, owner of Vineyard Auto Supply, said the biggest concern is traffic in July. A connector road would be great. Moving rubbish containers would be great. And the new building will be great.

Robin Purcell, Woodland Grill, is curious about peak time of traffic. **Charles Crevo** said, based on State Road counts, the peak hour on State Road is 12:45 to 1:45 pm, basically the lunch hour. The greenhouse replacement building traffic was included in his calculations. Although there are still empty spaces, the traffic estimates assume full use of the buildings.

Megan Ottens-Sargent asked whether the Commission limited the kind of businesses in Phase I. **Paul Foley** clarified that the Commission did not. **Megan** would like to look at the full written traffic report. She noted that traffic affects water.

Mimi Davisson asked about the red mark on the blueprint. **Sam Dunn** said they indicate marking that has been added to pavement.

Linda Sibley said landscaping of this phase will be similar to that of Phase One. She asked whether trees be honey locusts with clematis and wisteria. **Sam Dunn** said they are using clematis and roses. **Linda Sibley** said she wants it on the record what the plants are supposed to be.

Sam Dunn said that regarding lighting, he assumes that whatever is on the front buildings will go on the back building.

Mimi Davisson asked whether energy sustainability was a criterion in the design. **Sam Dunn** said there was nothing heroic, but there would be good insulation.

John Breckenridge said the applicant should incorporate rocks in the landscape plan.

John Best asked about the cathedral ceilings and suggested that Sam Dunn look at the energy policy to see if he can do more for energy conservation.

Christina Brown continued the public hearing to July 13, 2006.

3. GIRL SCOUT CAMP, CHILMARK – CONCURRENCE REVIEW

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Crane, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, L. Sibley, P. Strauss, A. Woodruff

For the Applicant: Edward Vincent, attorney; Tenney Lanz, director of administration

Linda Sibley explained that the referral was made by the Chilmark Board of Selectmen.

Riggs Parker, chairman of the Chilmark Board of the Selectman, explained that the purpose of the referral has now been met. The Selectmen referred the project to the Commission because no other means existed to have a public meeting allowing comment from abutters. The Girl Scouts are an educational organization and exempt from local review. The Selectmen wanted to ensure a public process and can do that through the Commission.

John Breckenridge said at the LUPC meeting, Warren Doty had raised concern about greater specificity with respect to future uses as well as a limit on the number of vehicles and the number of people on the site. Referral to the Commission creates a public forum for discussion of those issues which Chilmark Selectmen believe are relevant.

3.1 Applicant's Presentation

Edward Vincent, attorney representing the Girl Scouts, said the application is for the replacement of the existing lodge at the campsite in Chilmark.

- The existing building is run down and in violation of setback rules and regulations.
- The new building would be in full compliance. It would be 1900 square feet with two handicapped bathrooms, an infirmary, a meeting hall, a kitchen, a few offices, and memorabilia storage.
- The building will be 1000 square feet larger.

- He distributed a table outlining the current and anticipated intensity of activity.
 - Summer resident camping: 15-20 girls plus counselors for two to three weeks during the summer. Vehicles would include 1-2 passenger vans.
 - Summer day camping: 15-20 campers per week for two weeks at the end of each summer from 9-4, with 2-5 staff cars on site.
 - Troop or group camping: currently the AMC uses it for 20-30 people for weekends up to one week May through October. The building will be used 10-12 separate weekends. The same groups currently using the building will use the new facility.
 - Troop meeting or events: up to 32 people, as approved by the Board of Health, will use the building for meetings and special events. They may meet 12-15 more times per year.
 - Use of the lodge during the winter will be dependent on the cost of heating.
- The list is the maximum anticipated use.

Megan Ottens-Sargent asked whether the building has the capacity to house thirty people. **Tenney Lanz**, director of administration, responded that in the winter, the lodges have mattresses and can accommodate thirty people inside.

Ned Orleans asked why the square footage is more than doubled. **Edward Vincent** said that health codes now require handicapped bathrooms, offices, infirmary and kitchen. The lodge part itself is approximately the same size.

Linda Sibley reminded Commissioners that the main purpose is to determine whether they should be holding a full public hearing.

Mimi Davisson asked for clarification on troop and group numbers.

Kathy Newman said she got the impression that Chilmark was looking for setting limits on the number of cars, the number of people, and the number of times the facility was used off season. She understands that the applicant wants flexibility while the neighbors might want limits.

Doug Sederholm said they have strictly limited usage to 32 people at any one time. But the website said the site accommodates up to 30 people etc. Girl Scouts are binding themselves to the limit of 32 people.

Jim Powell asked for an enforceable covenant stating the limitation. **Edward Vincent** said it was understood that if the Commission voted to approve the non-concurrence, the Girl Scouts would add the limitation and if the limitation were broken then the project would come to the Commission for review.

Chris Murphy said it should be easy to approve this and conditioning a non-concurrence is unnecessary.

3.2 Public Comment

Eric Peters, representing direct abutters, outlined his concerns.

- This property is 35 feet off Middle Road; access is a narrow 10-foot road access road within the abutter's property.
- The terms of the easement are not written and there is no recorded agreement regarding site maintenance or maintenance of the overhead power line.

- The applicant has made various representations that everything will be exactly as it has been. However, there could be additional activity in winter.
- The new building will attract more activity and there will be an impetus to get a return on the capital investment.
- There will be Girl Scout events throughout the year. The ultimate rental capacity is still not clear.
- A restrictive covenant has been suggested. Girl Scouts went to the Board of Appeals last fall where they would have had a forum to discuss traffic, zoning, etc. But because the Girl Scouts are exempt, nothing was discussed and the Girl Scouts declined to non-exempt themselves.
- The plan calls for two pavilions for eating and activities, etc., at 2700 square feet. The Girl Scouts have said they aren't building the pavilion. He wondered when they will build it because it seems an integral part of the plan.
- He understands that Middle Road won't allow buses except school buses. He handed out photos that were taken of Middle Road showing a bus accessing the site.
- He asked what travel constraints will be on the property and what the rules and regulations are what the rules and regulations will be, and how will they enforce them.
- The annual report said only one of the officers lives on Martha's Vineyard.
- Neighbors don't have problem with the building but are concerned with forty years from now.

Ann Boyer, not an abutter but a close neighbor, said there's a lack of clarity with which the Girl Scouts have presented the project. . She's heard both that the building will be and won't be rented. She would like more precision about the goal and more limits and is concerned about the regional impact on traffic.

Robert Fokos, an abutter, met with Girl Scout representatives and presented an alternate plan which would help reduce the noise. He proposed locating the building in a different manner to alleviate the noise affect on his property; however his proposal for siting the building wasn't mentioned to the zoning board of appeals when the Girls Scouts made the presentation. He met again with the representative for the local Girl Scouts. They said they understood everything, but nothing changed when building plan was submitted. Finally, he met with a representative who said his plan was a good one, but they couldn't afford to implement it. It's not the kind of response he'd expect from this organization.

Tenney Lanz is frustrated with the impugned impressions that people have given too much of this project.

- Council has said the road is a valid public way.
- The lot is a preexisting non-conforming lot.
- The vast majority of money comes from three sources: a Vineyard Girl Scout fund, donated materials, and donated labor. The Girl Scouts are not concerned with return on investment.
- There was no intention to limit the size to avoid Commission review. The 1900 square foot building was what they designed and it was moved back from Mr. Fokos's line.
- The Girl Scouts don't have the money to build the pavilion and have no plans to build it.

- The town of Chilmark does not have a noise zoning by-law. The Girl Scouts have initiated their own noise restriction between 10:00 p.m. and 7:00 a.m.
- Mr. Fokos and his wife complain about noise during the early evening and have disrupted Girl Scout activities.
- She doesn't have a problem with moving the building 180 degrees. However, if the building were re-sited, it wouldn't be within the zoning limits and would be within the 50-foot set-back area or it would eliminate the play area. It would also cause additional environmental disruption.
- Responding to a question from Linda Sibley, she said the Board of Directors has the authority to change the siting of the building.
- They have told the neighbors that exterior lights will be low level and won't bother neighbors.

Alice Robinson, co-director of the camp, said the project was initiated by the local council.

- The building was not working and the renovation required that they bring it up to code.
- In 1987, the property task force decided to keep the Wampanoag property.
- The task force recognized three major deterrents to the use of the property: too far from the Steamship Authority, costly to bring girls to the Island, and not beachfront or in town.
- They have made improvements to the property; flushers; hot water and tent platforms.
- The improvements made no change in the use of the property.
- They don't know what the future holds for income. Money is a major fact in the building's use and whether it can afford to be open in the winter.

Christina Brown explained that LUPC voted to recommend that this be a DRI and be discussed more openly.

Chris Murphy moved, and it was duly seconded, to accept this project as a DRI.

- **Christina Brown** said that the alternative would be that it not be a DRI provided the conditions and limits contained in letter were respected.
- **John Breckenridge** feels comfortable that limitations have been addressed. He asked whether a public hearing would satisfy neighbors' requests and concerns. He asked whether the applicant would make a strong gesture to set up a meeting with a representative of the selectmen and a representative of the abutters to hear the issues at a town level.
- **Kathy Newman** LUPC made it really clear they wanted Girl Scouts to address the issues with clear language and she doesn't feel they did.
- **Jim Athearn** said hearing the uses underscores for him the importance to the Island and the greater community. It might be to the Girl Scouts' benefit to have a DRI so the Commission can legitimize their use of the land and their presence in the neighborhood, and at the same time clarify the neighbor's issues.
- **Mark London** said counsel has recommended a process whereby if the decision is to not to concur with the referral, then 'offers' can be spelled out and filed with the deed.
- **Doug Sederholm** commented that deciding this isn't a DRI and recording with documents attached is not nearly as good a set up for enforcement. A recorded DRI decision giving direct injunctive power is more effective. He thinks the Girl Scouts have made a legitimate effort to address the issues, but they haven't quite gotten there. The Girl

Scouts will potentially be doubling troupe/group camping and winter activities. He agrees with Chris Murphy that if the Board of Selectmen makes the referral we should give it substantial deference. However, if reviewed, he's not sure that neighbors will be satisfied.

- **Martin Crane** asked what the exact criteria were for determining this project to be a DRI. Linda Sibley said that there aren't exact criteria.
- **Paul Strauss** said it's desirable that the Girl Scouts have a facility. That's not an issue. The information from the applicant requires greater clarity and precision. The DRI process will get us there.

A voice vote was taken on the motion to concur with the referral to the Commission for a DRI review. In favor: 16. Opposed: 1. Abstentions: 0. The motion passed.

Jim Athearn asked whether the Commission could exempt or minimize the DRI fee. **Mark London** said that the fee structure does not provide for an exemption for non-governmental entities.

4. TOWN OF CHILMARK - DRI 383-M – HOMESITE HOUSING MODIFICATION

Commissioners Present: J. Best, J. Breckenridge, C. Brown, C. Condon, M. Davisson, C. Murphy, K. Newman, N. Orleans, D. Sederholm, L. Sibley, P. Strauss, A. Woodruff

The Town of Chilmark is requesting a change in a Youth Lot to a Homesite Housing Lot, which will provide affordability in perpetuity.

Carlene Condon moved and it was duly seconded that the modification is not significantly substantial to require a public hearing. A voice vote was taken. In favor: 10. Opposed: 0. Abstentions: 1. The motion passed.

Carlene Condon moved and it was duly seconded to modify Conditions 3 and 7, changing Youth Lot to Homesite Housing Lot. A voice vote was taken. In favor: 10. Opposed: 0. Abstentions: 1. The motion passed.

5. GOOD COMPANY: DRI 551-M2 – DELIBERATION & DECISION

Commissioners Present: J. Athearn, J. Best, J. Breckenridge, C. Brown, C. Condon, M. Crane, M. Davisson, C. Murphy, K. Newman, N. Orleans, M. Ottens-Sargent, D. Pigeon, J. Powell, D. Sederholm, L. Sibley, P. Strauss, A. Woodruff

For the Applicant: Sean Murphy

John Breckenridge stated for the record that he works in the food service trade, selling products to the Navigator. He noted that the State Ethics Board has stated that the integrity of the review process will not be compromised by his participation.

Carlene Condon opened the discussion of conditions and offers.

5.1 Wastewater

- Various Commissioners summarized the testimony.

- Members of the public have expressed concern about the addition to the Wastewater Treatment Plant and wastewater being moved from the Katama Bay to the Edgartown Great Pond watersheds.
- Alternative wastewater treatment was discussed but the applicant believes it's not feasible because of seasonal nature of the project.
- The applicant's offer is to build a pump system that would help allow other residences in the Edgartown Great Pond to be sewerred.
- It could be argued that there would be some benefit to the community because of nitrogen reduction.
- Offers regarding septic are summarized in a letter from Mr. Murphy dated June 22nd, a follow-up to a May 25th letter.
- Ultimately there was a recommendation from LUPC to approve the project with offers submitted by the applicant.
- Commissioners approved the wastewater conditions with one abstention.
- **John Best** asked for clarification of the pump station. The applicant is willing to provide the pump station if it is necessary.

Carlene Condon moved to accept the applicant's offer related to wastewater.

- **Carlene Condon** commented that the offer is a benefit to the community in that it can lead to extensive sewerred in the Edgartown Great Pond watershed.

Voice vote. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.

5.2 Traffic

Commissioners summarized the testimony.

- A traffic study was submitted to the Commission with mitigation measures.
- An alternative route wasn't going to help and perhaps would add to traffic problems.

Carlene Condon moved to accept the applicant's offer related to traffic.

Voice vote. In favor: 11. Opposed: 0. Abstentions: 0. The motion passed.

Commissioners accepted the applicants' offers with one abstention.

5.3 Energy Efficiency

Commissioners voted to accept the energy efficiency plan with one abstention.

5.4 Environmental Issues

- The only significant discussion related to environmental issues was the discussion of landscaping plan

Commissioners voted to accept the landscape plan and standard language related to fertilizers with one abstention

5.5 Cultural Values

- **Carlene Condon** summarized the community benefits package listed in Sean Murphy's May 25th letter.

Andrew Woodruff moved and it was duly seconded that the Commission accept community benefits package offer.

- **John Best** said he wasn't here for LUPC and wondered if anything came up in relation to the effort to build the YMCA. He expressed concern about the lack of interaction of people of all different social strata which would be circumvented by a more elite facility. He reiterated that the community benefits package doesn't alleviate social stratification.
- **Doug Sederholm** said he really doesn't see it having a negative impact on the YMCA. He's not delighted on a personal level
- **Linda Sibley** said she is concerned that it could impact fundraising to the Y.
- **Chris Murphy** said the question is really the character of Martha's Vineyard and whether this would impact the character. He asked whether the mitigating offers offset the impact on character.
- **Andrew Woodruff** said one doesn't walk away from community benefits but later on the Commission may want to re-examine and see if the benefits have outweighed the detriments.
- **Paul Strauss** commented that they are mostly laudable offers by the applicant. He doesn't necessarily see them as 'community benefits'.

Commissioners voted to accept the Community Benefits offers with three abstentions.

5.6 Housing

- The applicants are maintaining the same number of affordable housing lots in the original subdivision and providing staff housing for 24 seasonal and 6 year round employees.
- Commissioners discussed the difference between affordable housing and staff housing and whether their offer has a beneficial or needed effect on the supply of housing.

Commissioners agreed to accept the offer, with one abstention, and title it 'housing', dividing the paragraph into two paragraphs, which was agreeable to the applicant.

5.7 Seasons/Hours of Operation

Commissioners agreed to accept the offer with two abstentions.

5.8 Uses on the Property

Commissioners agreed to accept the offer with one abstention.

5.9 Functions

Commission agreed to accept the offer with two abstentions.

5.10 Membership

Paul Strauss asked about membership limit. **Sean Murphy** clarified that capacity is limited to 200; membership is unlimited. The goal is to have 500 in-season and 300 off-season members. Parking spaces will be 70 parking plus 4 parking for staff

Carlene Condon noted that LUPC recommended approval with conditions.

Chris Murphy moved, and it was duly seconded, to approve the project with conditions as just stipulated.

Commissioners agreed to defer discussion of benefits and detriments of the project until June 29th.

The meeting adjourned at 11:00 p.m.

Linda B. Sibley
Chairman

Oct 19, 2006
Date

W. Mean
Clerk-Treasurer

Oct 19, 2006
Date